



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6276-99

4 February 2000

CAPT [REDACTED] USMC

Dear Captain [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of your fitness report for 15 June to 31 July 1997, adjustment of your date of rank as a captain from 1 July 1994 to 1 November 1996, and removal of your failure by the Fiscal Year (FY) 2000 Major Selection Board.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) in your case, dated 30 September 1999, the two advisory opinions from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 13 October and 7 December 1999, and the advisory opinion from the HQMC Manpower Plans, Programs and Budgeting Branch (MPP), dated 19 November 1999, copies of which are attached. They also considered your rebuttal letter dated 19 October 1999 with enclosure.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

They were unable to find that you were not fairly considered by the augmentation board by which you were not selected, nor could they find that you would have been selected for augmentation had you been considered by the prior augmentation board. Therefore, they could find no error or injustice in your not having been on active duty from September 1994 to January 1997, whether or not this was a factor in your failure of selection to major.

The Board substantially concurred with the comments contained in the report of the PERB in finding that your contested fitness report should stand. They were unable to find that your reporting senior was "inadequately prepared" to evaluate you, or that the attitude of your seniors prevented an unbiased opinion of your performance. They further concurred with the advisory opinion from MPP in concluding that your date of rank should remain as is.

Since the Board found no defect in your performance record, and no error or injustice in your break in active duty or your date of rank, they had no basis to remove your failure by the FY 2000 Major Selection Board.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures

6276-99



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:  
1610  
MMER/PERB  
**SEP 30 1999**

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
CAPTAIN [REDACTED] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 5 Jun 99  
(b) MCO P1610.7D w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 September 1999 to consider Captain [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 970115 to 970731 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is factually inaccurate and that the Reporting Senior failed to mention significant accomplishments and take all facts into consideration. He also disclaims any counseling on "deficiencies" and states that it was not until time for his fitness report to be prepared that he was informed that Major [REDACTED] would be his Reporting Senior. In addition, the petitioner believes the report violates certain provisions of reference (b). To support his appeal, the petitioner furnishes his own detailed statement, a copy of his Master Brief Sheet, and letters from Lieutenant Colonel [REDACTED] and Captain [REDACTED].

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Notwithstanding the petitioner's own statement and the advocacy letters furnished on his behalf, the Board is not persuaded or otherwise convinced that the report is either factually flawed or represents a biased opinion of his overall performance during this finite period. That the petitioner and others view his performance with a higher degree of accomplishment is a product of differing opinions rather than factual inaccuracies. The allegation by the petitioner, and supported by Captain [REDACTED] in his letter at enclosure (3) to reference (a), that "two key accomplishment" were omitted is unfounded. Mid-way in Section C of the challenged report is information concerning the petitioner's "additional duties" as an Italian Liaison

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
 ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
 CAPT [REDACTED] USMC

Officer during the AAV compatibility testing, with further information concerning his part in the successful outcome of that effort. The significance of this "additional duty" is further reflected by the mark of "outstanding" in Item 13b (additional duties). The significance the petitioner places on his involvement with the noncombatant evacuation is [REDACTED] is from his perspective. Nothing he offers substantiates that Major [REDACTED] should have made specific comments on that operation or somehow slighted him by not doing so. The omission of such information, in the Board's judgment, constitutes neither an error nor an injustice; nor does it somehow prove that the report is either inaccurate or biased.

b. The petitioner fails to substantiate that he did not know Major [REDACTED] as his Reporting Senior until just prior to the end of the reporting period. In fact, Captain [REDACTED] confirms Major [REDACTED] as the rightful Reporting Senior for all of the Captains in the 22d MEU S-3 office (a relationship that continued into the subsequent report). Given the daily contact that took place in the high tempo environment of a MEU(SOC) deployment, the Board finds it extremely unlikely the petitioner did not receive proper counseling, guidance, and performance feedback from Major [REDACTED]. Likewise, his contention that he was not counseled on his deficiencies is implausible, since there are no inferred or implied deficiencies in the challenged fitness report.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Captain [REDACTED] official military record.

5. The case is forwarded for final action

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 Colonel, U.S. Marine Corps  
 Deputy Director  
 Personnel Management Division  
 Manpower and Reserve Affairs  
 Department  
 By direction of the Commandant  
 of the Marine Corps



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

6276-99

IN REPLY REFER TO:

1600  
MMOA-4  
13 Oct 99

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS**

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Captain [REDACTED] USMC  
of 12 Oct 99

1. Recommend disapproval of Captain [REDACTED] implied request for removal of his failure of selection.
2. Per the reference, we reviewed Captain [REDACTED] record and petition. He failed selection on the FY00 USMC Major Selection Board. Subsequently, he unsuccessfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Annual fitness report of 970115 to 970731. Captain [REDACTED] implies a request for removal of his failure of selection
3. In our opinion, the petitioned report does present competitive concern to the record. However, Captain [REDACTED] as other areas of competitive concern in his record that more than likely led to his failure of selection.
  - a. **Section B Marks.** The record reflects less competitive Section B marks in Administrative Duties, Handling Officers, Military Presence, Attention to Duty, Initiative, Force, and Economy of Management.
  - b. **Overall Value and Distribution.** Captain [REDACTED] overall Value and Distribution marks are less competitive. He has sixteen officers ranked above him and nine below, placing him mid to bottom pack.
  - c. **Section C and Reviewing Officer Comments.** Captain [REDACTED] Section C comments are replete with growing comments. As a company commander the Reviewing Officer states, "Force and initiative improving."

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]  
[REDACTED] USMC

4. In summary, we believe Captain [REDACTED] petition is without merit. His record received a substantially complete and fair evaluation by the Board. Had the petitioned report been removed by the PERB, his record would not have been significantly improved. Captain [REDACTED] record has other areas of competitive concern beyond the petitioned report that more than likely led to his failure of selection. Therefore, we recommend disapproval of Captain [REDACTED] implied request for removal of his failure of selection.

5. Point of contact is [REDACTED]

[REDACTED]

Lieutenant Colonel, U.S. Marine Corps  
Head, Officer Career Counseling and  
Evaluation Section  
Officer Assignment Branch  
Personnel Management Division .



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

6276-99

IN REPLY REFER TO:

1600  
MMOA-4  
7 Dec 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Captain [REDACTED] USMC  
of 2 Dec 99  
(b) MMOA-4 Memorandum for the Executive Director, Board for  
Correction of Naval Records of 13 Oct 99

1. Recommend disapproval of Captain [REDACTED] request for  
removal of his failure of selection.

2. Per reference (a), we reviewed Captain [REDACTED] record and  
petition. He failed selection on the FY00 USMC Major Selection  
Board. He unsuccessfully petitioned the Performance Evaluation  
Review Board (PERB) for removal of the Annual fitness report of  
970115 to 970731. Captain [REDACTED] requests the BCNR give his  
request for removal of his failure of selection further  
consideration.

3. In our opinion, Captain [REDACTED] request does not reflect a  
material change in his record as it appeared before the FY00  
Board. His record received a substantially complete and fair  
evaluation by the Board and his petition is without merit.  
Therefore, our original advisory opinion, reference (b), remains  
germane and we still recommend disapproval of Captain [REDACTED]  
request for removal of his failure of selection.

4. Point of contact is Major [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Lieutenant Colonel, U.S. Marine Corps  
Head, Officer Career Counseling and  
Evaluation Section  
Officer Assignment Branch  
Personnel Management Division

6276-99



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
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IN REPLY REFER TO:

1400  
MPP  
NOV 19 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

Ref: (a) 10 U.S.C. § 1552

1. Recommend subject application be denied.
2. Captain [REDACTED] request for an adjustment to his date of rank would be warranted and within the purview of the BCNR per the reference if there were an error or injustice that needed to be corrected or removed. No such error or injustice exists in his case.
2. POC is M [REDACTED] MC (MPP) at [REDACTED]

[REDACTED]  
Col. U.S. Marine Corps  
Head, Manpower Plans,  
Programs and Budgeting Branch